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BEFORE THE BOARD OF PATENT APPEALS

In re Application of

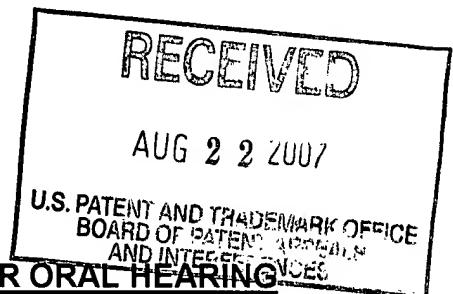
Robert SKVORECZ

Reissue of U. S. Patent: 5,996,948 **Appeal No: 2006-1989**

SERIAL NO. : 09/772.278

FILED : March 15, 2001

FOR : WIRE CHAFING STAND



**RECONSIDERATION OF DENIAL OF REQUEST FOR ORAL HEARING
FOLLOWING BOARD DECISION UNDER 37 CFR 41.2**

BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE
P. O. Box 1450
Alexandria, VA 22313-1450

S|R:

All necessary fees in connection with this request for reconsideration of an oral hearing following the decision from the Board Of Appeals should be deducted from Deposit Account No. 503814.

- i) **Reconsideration of Request For Oral Rehearing And Opportunity To Present A Model of Prior Art To Rebut Inherency Allegation:**

Appellant's request for an Oral Hearing filed on May 21, 2007 concurrently with its request for reconsideration of the Board decision was denied based upon 37 CFR 41.47 which requires Appellant to make such request within a period of two months from the date of the Examiners Answer or supplemental

answer. However, the request for an oral hearing was made within one month of the decision of the Board in which a new issue was raised (lack of inherency) not previously raised by the Examiner. No answer was received from the Examiner in response to the request by Appellant for reconsideration of the decision from the Board of Appeals and accordingly the request of Appellant is believed to be timely.

In the decision of the Board of Appeals dated March 28, 2006, on page 22 thereof, it states that "the (alleged) prima facie case of anticipation (of claims 1 and 2 under 35 USC102b) may be rebutted by evidence (**emphasis added**) showing that the prior art products do not necessarily possess the characteristics of the claimed product, In re Best 562 F 2d at 1255". Appellant requires this hearing to present the evidence requested by the Board in its decision. Such evidence was not requested by the Examiner. The final rejection of the claims by the Examiner was not based upon inherency in the prior art and no evidence of lack of inherency was needed for the appeal. Appellant has requested an oral hearing to present a model of the prior art Buff '062 as evidence and proof of the lack of inherency in the prior art product. The model that Appellant desires to present to the Board at the oral hearing, to refute the inherency allegation, is a duplicate reproduction of the product of Buff '062.

The time period for a request by Appellant for an oral hearing under 37CFR 41.2 cannot expire before the new issue for oral argument has been raised.

If this were the case, it would not be possible for Appellant to present evidence as required by the Board in its decision.

Accordingly, reconsideration of the request for an oral hearing and to present a model of the prior art is requested.

Dated: August 20, 2007

Respectfully submitted,

Eugene Lieberstein
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L. Felicetti (Typed or printed name of person mailing paper or fee)
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